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BY THE GOVERNOR OF VIRGINIA.

A PROCLAMATION.

WHEREAS the Convention of this Commonwealth, on the 5th day of December 1861, adopted a Constitution for the State of Virginia, to which is prefixed a Declaration of Rights, and on the sixth day of the same month a Schedule, which is annexed thereto, and in said Schedule the Governor is required to announce the fact and publish the same :

Now, therefore, I, JOHN LETCHER, Governor of the Commonwealth of Virginia, do hereby proclaim the following to be a true copy of the said Declaration of Rights, Constitution and Schedule, to be submitted to the qualified voters for ratification or rejection, as prescribed therein.

◆◆◆◆◆ Given under my hand as Governor, and under the Seal of
◆ L. S. ◆ the Commonwealth, at Richmond, this 12th day of Decem-
◆◆◆◆◆ ber 1861, and in the eighty-sixth year of the Commonwealth.

JOHN LETCHER.

By the Governor :

GEORGE W. MUNFORD,

Secretary of the Commonwealth.



NEW

CONSTITUTION OF VIRGINIA,

PROPOSED FOR ADOPTION,

BY THE CONVENTION.

1861.



A DECLARATION OF RIGHTS

Made by the representatives of the good people of Virginia, assembled in full and free convention, which rights do pertain to them and their posterity as the basis and foundation of government.

1. That all men are by nature equally free and independent, and have certain inherent rights, of which, when they enter into a state of society, they cannot, by any compact, deprive or divest their posterity; namely, the enjoyment of life and liberty, with the means of acquiring and possessing property, and pursuing and obtaining happiness and safety.

2. That all power is vested in, and consequently derived from, the people; that magistrates are their trustees and servants, and at all times amenable to them.

3. That government is, or ought to be, instituted for the common benefit, protection and security of the people, nation or community; of all the various modes and forms of government, that is best which is capable of producing the greatest degree of happiness and safety, and is most effectually secured against the danger of mal-administration; and that, when any government shall be found inadequate or contrary to these purposes, a majority of the community hath an indubitable, unalienable and indefeasible right to reform, alter or abolish it, in such manner as shall be judged most conducive to the public weal.

4. That no man, or set of men are entitled to exclusive or separate emoluments or privileges from the community, but in consideration of public services, which, not being descendible, neither ought the offices of magistrate, legislator or judge to be hereditary.

5. That the legislative and executive powers of the state should be separate and distinct from the judiciary, and that the members of the two first may be restrained from oppression, by feeling and participating the burthens of the people, they should, at fixed periods,

be reduced to a private station, return into that body from which they were originally taken, and the vacancies be supplied by frequent, certain and regular elections, in which all, or any part of the former members to be again eligible or ineligible as the laws shall direct.

6. That elections of members to serve as representatives of the people in assembly ought to be free, and that all men having sufficient evidence of permanent common interest with, and attachment to, the community, have a right of suffrage, and cannot be taxed or deprived of their property for public uses, without their own consent, or that of their representatives so elected, nor bound by any law to which they have not in like manner assented, for the public good.

7. That all power of suspending laws, or the execution of laws, by any authority, without consent of the representatives of the people, is injurious to their rights, and ought not to be exercised.

8. That in all capital or criminal prosecutions, a man hath a right to demand the cause and nature of his accusation, to be confronted with the accusers and witnesses, to call for evidence in his favor, and to a speedy trial by an impartial jury of his vicinage, without whose unanimous consent he cannot be found guilty; nor can he be compelled to give evidence against himself; that no man be deprived of his liberty, except by the law of the land or the judgment of his peers.

9. That excessive bail ought not to be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted.

10. That general warrants, whereby an officer or messenger may be commanded to search suspected places without evidence of a fact committed, or to seize any person or persons not named, or whose offence is not particularly described and supported by evidence, are grievous and oppressive, and ought not to be granted.

11. That in controversies respecting property, and in suits between man and man, the ancient trial by jury is preferable to any other, and ought to be held sacred.

12. That the freedom of the press is one of the great bulwarks of liberty, and can never be restrained but by despotic governments.

13. That a well regulated militia, composed of the body of the people, trained to arms, is the proper, natural and safe defence of a free state; that standing armies, in time of peace, should be avoided as dangerous to liberty; and that in all cases the military should be under strict subordination to, and governed by, the civil power.

14. That the people have a right to uniform government; and therefore, that no government separate from, or independent of, the government of Virginia, ought to be erected or established within the limits thereof.

15. That no free government or the blessings of liberty, can be preserved to any people but by a firm adherence to justice, moderation, temperance, frugality and virtue, and by frequent recurrence to fundamental principles.

16. That religion, or the duty which we owe to our Creator, and the manner of discharging it, can be directed only by reason and conviction, not by force or violence; and therefore all men are equally entitled to the free exercise of religion, according to the dictates of conscience; and that it is the mutual duty of all to practice christian forbearance, love and charity towards each other.



CONSTITUTION.

1. Whereas, the delegates and representatives of the good people of Virginia, in convention assembled, on the twenty-ninth day of June, in the year of our Lord one thousand seven hundred and seventy-six—reciting and declaring, that whereas, George the Third, king of Great Britain and Ireland, and elector of Hanover, before that time entrusted with the exercise of the kingly office in the government of Virginia, had endeavored to pervert the same into a detestable and insupportable tyranny, by putting his negative on laws the most wholesome and necessary for the public good; by denying his governors permission to pass laws of immediate and pressing importance, unless suspended in their operation for his assent, and when so suspended, neglecting to attend to them for many years; by refusing to pass certain other laws, unless the persons to be benefitted by them would relinquish the inestimable right of representation in the legislature; by dissolving legislative assemblies repeatedly and continually, for opposing, with manly firmness, his invasions of the rights of the people; when dissolved, by refusing to call others for a long space of time, thereby leaving the political system without any legislative head; by endeavoring to prevent the population of our country, and for that purpose obstructing the laws for the naturalization of foreigners; by keeping among us, in time of peace, standing armies and ships of war; by affecting to render the military independent of and superior to the civil power; by combining with others to subject us to a foreign jurisdiction, giving his assent to their pretended acts of legislation; for quartering large bodies of armed troops among us; for cutting off our trade with all parts of the world; for imposing taxes on us without our consent; for depriving us of the benefits of the trial by jury; for transporting us beyond seas to be tried for pretended offences; for suspending our own legislatures, and declaring themselves invested with power to legislate for us in all cases whatsoever; by plundering our seas, ravaging our coasts, burning our towns and destroying the lives of

our people ; by inciting insurrections of our fellow-subjects with the allurements of forfeiture and confiscation ; by prompting our negroes to rise in arms among us—those very negroes, whom, by an inhuman use of his negative, he had refused us permission to exclude by law ; by endeavoring to bring on the inhabitants of our frontiers the merciless Indian savages, whose known rule of warfare is an undistinguished destruction of all ages, sexes and conditions of existence ; by transporting hither a large army of foreign mercenaries to complete the work of death, desolation and tyranny, then already begun, with circumstances of cruelty and perfidy unworthy the head of a civilized nation ; by answering our repeated petitions for redress with a repetition of injuries ; and, finally, by abandoning the helm of government and declaring us out of his allegiance and protection ; by which several acts of misrule, the government of this country, as before exercised under the crown of Great Britain, was totally dissolved—did, therefore, having maturely considered the premises, and viewing with great concern the deplorable condition to which this once happy country would be reduced, unless some regular, adequate mode of civil polity should be speedily adopted, and in compliance with the recommendation of the general congress, ordain and declare a form of government of Virginia :

2. And whereas, a convention, held on the first Monday in October, in the year one thousand eight hundred and twenty-nine, did propose to the people of the commonwealth an amended constitution or form of government, which was ratified by them :

3. And whereas, a convention, held on the first day of August, 1851, did propose to the people of the commonwealth an amended constitution, which was ratified by them :

4. And whereas, the general assembly of Virginia, by an act passed January 14th, 1861, did provide for the election by the people, of delegates to meet in general convention to consider the propriety, among other things, of changing the organic law of the state, and of submitting the same to the people for ratification or rejection :

5. We, therefore, the delegates of the good people of Virginia, elected and in convention assembled, in pursuance of said act, do propose to the people the following constitution and form of government for this commonwealth :

ARTICLE I.

BILL OF RIGHTS.

The declaration of rights, as amended and prefixed to this constitution, shall have the same relation thereto as it had to the former constitution.

ARTICLE II.

DIVISION OF POWERS.

The legislative, executive and judiciary departments shall be separate and distinct, so that neither exercise the powers properly belonging to either of the others; nor shall any person exercise the powers of more than one of them at the same time, except that justices of the peace shall be eligible to either house of assembly.

ARTICLE III.

QUALIFICATION OF VOTERS.

1. Every white male citizen of the commonwealth of the age of twenty-one years, who has been a resident of the state for two years, and of the county, city or town where he offers to vote, for twelve months next preceding an election, and no other person, shall be qualified to vote for members of the general assembly and all officers elective by the people; but no person in the military, naval or marine service of the Confederate States shall be deemed a resident of this state by reason of being stationed therein; and no person shall have the right to vote who is of unsound mind, or a pauper, or a non-commissioned officer, soldier, seaman or marine in the regular army or navy of the Confederate States, or who has been convicted of bribery in an election, or of any infamous offence.

2. The general assembly, at its first session after the adoption of this constitution, and afterwards as occasion may require, shall cause every city or town, the white population of which exceeds five thousand, to be laid off into convenient wards, and a separate place of voting to be established in each, and thereafter no inhabitant of such city or town shall be allowed to vote except in the ward in which he resides.

3. No voter, during the time for holding any election at which he

is entitled to vote, shall be compelled to perform military service, except in time of war or public danger; to work upon the public roads, or to attend any court as suitor, juror or witness; and no voter shall be subject to arrest under any civil process during his attendance at elections, or in going to or returning from them.

4. In all elections votes shall be given openly or *viva voce*, and not by ballot; but dumb persons entitled to suffrage may vote by ballot.

ARTICLE IV.

LEGISLATIVE DEPARTMENT.

1. The legislature shall be formed of two distinct branches, which together shall be a complete legislature, and shall be called the general assembly of Virginia.

House of delegates.

2. One of these shall be called the house of delegates, and shall consist of one hundred and fifty-two members, to be chosen annually for and by the several counties, cities and towns of the commonwealth, the distribution and apportionment whereof shall remain as now provided by law until a reapportionment of the same shall be made by the general assembly, as hereinafter provided. The general assembly shall have power, upon application of a majority of the voters of the county of Campbell, to provide that instead of the two delegates to be elected by said county, the town of Lynchburg shall elect one delegate, and the residue of the county of Campbell shall elect one delegate. And the said general assembly shall have like power on the application of a majority of the voters of the county of Norfolk, to provide that instead of two delegates to be elected by said county, the city of Portsmouth shall elect one delegate and the residue of the county shall elect one delegate.

Senate.

3. The other shall be called the senate, and consist of fifty members, for the election of whom, the counties, cities and towns shall be divided into fifty districts. Each county, city and town of the respective districts, at the time of the first election of delegates under this constitution, shall vote for one senator; and the sheriffs or other officers holding the election for each county, city or town, within

five days after the election, shall meet at the courthouse of the county, city or town first named in the district, and from the polls so taken in their respective counties, cities and towns, return as senator the person who has received the greatest number of votes in the whole district. To keep up this assembly by rotation, the districts shall be divided into four classes, and numbered by lot. The first class shall consist of twelve, the second of thirteen, the third of twelve, and the fourth of thirteen. The seats of the senators of the first class shall be vacated at the expiration of the first year after the commencement of their term of office; of the second class, at the expiration of the second year; of the third class, at the expiration of the third year; and of the fourth class, at the expiration of the fourth year; so that one class may be chosen every year, and the vacancies thereby occasioned shall be supplied from such class by new election in the manner aforesaid. This rotation shall be applied to each class according to its number, and continued in due order annually.

4. For the election of senators, the districts shall remain as now arranged until representation in the two houses shall be reapportioned in the manner provided in the constitution.

Apportionment of representation.

5. It shall be the duty of the general assembly, in the year one thousand eight hundred and sixty-five, and in every tenth year thereafter, in case it can agree upon a principle of representation, to reapportion representation in the senate and house of delegates in accordance therewith; and in the event the general assembly, at the first or any subsequent period of reapportionment, shall fail to agree upon a principle of representation and to reapportion representation in accordance therewith, each house shall separately propose a scheme of representation, containing a principle or rule for the house of delegates, in connection with a principle or rule for the senate. And it shall be the duty of the general assembly, at the same session to certify to the governor the principles or rules of representation which the respective houses may separately propose, to be applied in making reapportionments in the senate and in the house of delegates; and the governor shall as soon thereafter as may be, by proclamation, make known the propositions of the respective houses, and require the voters of the commonwealth to assemble at such time as he shall appoint, at their lawful places of voting, and decide by their votes between the propositions thus presented. In the event the general

assembly shall fail, in the year one thousand eight hundred and sixty-five, or in any tenth year thereafter, to make such reapportionment or certificate, the governor shall, immediately after the adjournment of the general assembly, by proclamation, require the voters of the commonwealth to assemble, at such time as he shall appoint, at their lawful places of voting, and to declare by their votes :

First, whether representation in the senate and house of delegates shall be apportioned on the "suffrage basis;" that is, according to the number of votes in the several counties, cities, towns and senatorial districts of the commonwealth :

Or, second, whether representation in both houses shall be apportioned on the "mixed basis;" that is, according to the number of white inhabitants contained, and the amount of all state taxes paid, in the several counties, cities and towns of the commonwealth, deducting therefrom all taxes paid on license and law process, and any capitation tax on free negroes, allowing one delegate for every seventy-sixth part of said inhabitants, and one delegate for every seventy-sixth part of said taxes, and distributing the senators in like manner :

Or, third, whether representation shall be apportioned in the senate on taxation ; that is, according to the amount of all state taxes paid in the several counties, cities and towns of the commonwealth, deducting therefrom all taxes paid on license and law process, and any capitation tax on free negroes, and in the house of delegates on the "suffrage basis," as aforesaid :

Or, fourth, whether representation shall be apportioned in the senate on the "mixed basis," as aforesaid, and in the house of delegates on the "suffrage basis," as aforesaid ; and each voter shall cast his vote in favor of one of said schemes of apportionment, and no more.

6. It shall be the duty of the sheriffs and other officers taking said polls to keep the same open for a period of three days, and within five days after they are closed to certify true copies thereof to the governor, who shall, as early as may be, ascertain the result of said vote, and make proclamation thereof ; and in case it is ascertained that a majority of all the votes cast is in favor of either of the principles of representation, referred as aforesaid to the choice of the voters, the governor shall communicate the result of such vote to the general assembly at its first regular session thereafter ; but in case it

is ascertained that a majority of all the votes cast is not in favor of either of the principles of representation, referred as aforesaid to the choice of the voters, it shall be the duty of the governor, as soon as may be, after ascertaining the fact, in like manner to cause the voters to decide between the two principles of representation which shall at such previous voting have received the greatest number of votes; and he shall ascertain and make proclamation of the result of the said last vote, and communicate the same to the general assembly at its next regular session; and, in either case, the general assembly, at the regular session thereof, which shall be held next after the taking of the vote, the result of which shall have been so communicated to it by the governor, shall reapportion representation in the two houses respectively, in accordance with the principles of representation in each, for which a majority of the votes cast were given; and it shall be the duty of the general assembly, in every tenth year thereafter, to reapportion and distribute the number of senators and delegates in accordance with the same principle.

Qualification of senators and delegates.

7. Any person may be elected senator, who, at the time of election, has attained the age of twenty-five years, and is actually a resident within the district, and qualified to vote for members of the general assembly, according to this constitution; and any person may be elected a member of the house of delegates, who, at the time of election, has attained the age of twenty-one years, and is actually a resident within the county, city, town, or election district, qualified to vote for members of the general assembly, according to this constitution; but no person holding a lucrative office, no minister of the gospel or priest of any religious denomination, no salaried officer of any banking corporation or company, shall be capable of being elected a member of either house of assembly. The removal of any person elected to either branch of the general assembly from the county, city, town or district for which he was elected, shall vacate his office.

Powers and duties of the general assembly.

8. The general assembly shall meet once in every year, and not oftener, unless convened by the governor in the manner prescribed by the constitution. Neither house, during the session of the general assembly shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two

houses shall be sitting. A majority of each house shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and shall be authorized to compel the attendance of absent members in such manner and under such penalties as each house may provide.

9. The house of delegates shall choose its own speaker, and in the absence of the lieutenant governor, or when he shall exercise the office of governor, the senate shall choose from their own body a president *pro tempore*; and each house shall appoint its own officers, settle its own rules of proceeding, and direct writs of election for supplying intermediate vacancies; but if vacancies shall occur during the recess of the general assembly, such writs may be issued by the governor under such regulations as may be prescribed by law. Each house shall judge of the election, qualification and returns of its members, may punish them for disorderly behavior, and with the concurrence of two-thirds, expel a member, but not a second time for the same offence.

10. The members of the assembly shall receive for their services a compensation, to be ascertained by law, and paid out of the public treasury; but no act increasing such compensation shall take effect until after the end of the term for which the members of the house of delegates voting thereon were elected; and no senator or delegate, during the term for which he shall have been elected, shall be appointed to any civil office of profit under the commonwealth, which has been created, or the emoluments of which have been increased, during such term, except offices filled by elections by the people.

11. Bills and resolutions may originate in either of the two houses of the general assembly, to be approved or rejected by the other, and may be amended by either house, with the consent of the other.

12. Each house of the general assembly shall keep a journal of its proceedings, which shall be published from time to time, and the yeas and nays of the members of either house, on any question, shall, at the desire of one-fifth of those present, be entered on the journal. No bill shall become a law until it has been read on three different days of the session in the house in which it originated, unless two-thirds of the members elected to that house shall otherwise determine.

13. The whole number of members to which the state may at any time be entitled in the house of representatives of the Confederate States, shall be apportioned as nearly as may be amongst the several counties, cities and towns of the state, according to their respective numbers; which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons.

14. In the apportionment, the state shall be divided into districts, corresponding in number with the representatives to which it may be entitled in the house of representatives of the congress of the Confederate States, which shall be formed respectively of contiguous counties, cities and towns, be compact, and include, as nearly as may be, an equal number of the population, upon which is based representation in the house of representatives of the Confederate States.

15. The privilege of the writ of *habeas corpus* shall not in any case be suspended. The general assembly shall not pass any bill of attainder; or any *ex post facto* law; or any law impairing the obligation of contracts; or any law whereby private property shall be taken for public uses without just compensation; or any law abridging the freedom of speech or of the press. No man shall be compelled to frequent or support any religious worship, place, or ministry whatsoever; nor shall any man be enforced, restrained, molested, or burthened in his body or goods, or otherwise suffer on account of his religious opinions or belief; but all men shall be free to profess, and by argument to maintain their opinions in matters of religion, and the same shall in nowise affect, diminish or enlarge their civil capacities; and the general assembly shall not prescribe any religious test whatever; or confer any peculiar privileges or advantages on any sect or denomination, or pass any law requiring or authorizing any religious society, or the people of any district within this commonwealth, to levy on themselves or others any tax for the erection or repair of any house for public worship or for the support of any church or ministry; but it shall be left free to every person to select his religious instructor, and to make for his support such private contract as he shall please.

16. Every law, or resolution having the force of law, shall relate to but one subject, which shall be expressed in the title.

17. The general assembly may provide that no person shall be

capable of holding, or being elected to any post of profit, trust or emolument, civil or military, legislative, executive or judicial, under the government of this commonwealth, who shall hereafter fight a duel, or send or accept a challenge to fight a duel, the probable issue of which may be the death of the challenger or challenged, or who shall be second to either party, or shall in any manner aid or assist in such duel, or shall be knowingly the bearer of such challenge or acceptance; but no person shall be so disqualified by reason of his having heretofore fought such duel, or sent or accepted such challenge, or been second in such duel, or bearer of such challenge or acceptance.

18. The governor, lieutenant governor, judges and all others offending against the state, by maladministration, corruption, neglect of duty, or other high crime or misdemeanor, shall be impeachable by the house of delegates, and be prosecuted before the senate, which shall have the sole power to try impeachments. When sitting for that purpose they shall be on oath or affirmation; and no person shall be convicted without the concurrence of two-thirds of the members present. Judgment, in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust or profit under the commonwealth; but the party convicted shall nevertheless be subject to indictment, trial, judgment and punishment according to law. The senate may sit during the recess of the general assembly for the trial of impeachments and the consideration of executive business.

Slaves and free negroes.

19. Slaves hereafter emancipated shall forfeit their freedom by remaining in the commonwealth more than twelve months after they become actually free, and it shall be the duty of the general assembly to prescribe proper regulations for reducing such negroes to slavery.

20. The general assembly may prohibit the future emancipation of slaves, impose such restrictions and conditions as they shall deem proper on the power of slave owners to emancipate their slaves, and may pass laws for the relief of the commonwealth from the free negro population, by removal or otherwise.

21. The general assembly shall not emancipate any slave, or the descendant of any slave, either before or after the birth of such descendant.

Taxation and finance.

22. Taxation shall be equal and uniform throughout the commonwealth, and all property shall be taxed in proportion to its value, which shall be ascertained in such manner as may be prescribed by law; but any property may be exempted from taxation by the vote of a majority of the whole number of members elected to each house of the general assembly.

23. A capitation tax, equal to the tax assessed on land of the value of two hundred dollars, shall be levied on every white male inhabitant who has attained the age of twenty-one years; but nothing herein contained shall prevent exemptions of taxable polls in cases of bodily infirmity.

24. The general assembly may levy a tax on incomes, salaries and licenses; but no tax shall be levied on property from which any income so taxed is derived, or on the capital invested in the trade or business in respect to which the license so taxed is issued.

25. No money shall be drawn from the treasury but in pursuance of appropriations made by law; and a statement of the receipts, disbursements, appropriations and loans shall be published after the adjournment of each session of the general assembly, with the acts and resolutions thereof.

26. On the passage of every act which imposes, continues or revives a tax, or creates a debt or charge, or makes, continues or revives any appropriation of public or trust money or property, or releases, discharges or commutes any claim or demand of the state, the vote shall be determined by yeas and nays, and the names of the persons voting for and against the same, shall be entered on the journals of the respective houses, and a majority of all the members elected to each house shall be necessary to give it the force of a law.

27. The liability to the state of any incorporated company or institution, to redeem the principal and pay the interest of any loan heretofore made, or which may hereafter be made by the state to such company or institution, shall not be released; and the general assembly shall not pledge the faith of the state, or bind it in any form, for the debts or obligations of any company or corporation.

28. There shall be set apart annually, from the accruing revenues,

a sum equal to seven per cent. of the state debt existing on the first day of January, in the year one thousand eight hundred and fifty-two. The fund thus set apart shall be called the sinking fund, and shall be applied to the payment of the interest of the state debt, and the principal of such part as may be redeemable. If no part be redeemable then the residue of the sinking fund, after the payment of such interest, shall be invested in the bonds or certificates of debt of this commonwealth, or of the Confederate States, or of some of the states of this Confederacy, and applied to the payment of the state debt, as it shall become redeemable. Whenever, after the said first day of January, a debt shall have been or shall be contracted by the commonwealth, there shall be set apart in like manner, annually, for thirty-four years, a sum exceeding by one per cent. the aggregate amount of the annual interest agreed to be paid thereon at the time of its contraction; which sum shall be part of the sinking fund, and shall be applied in the manner before directed. The general assembly shall not otherwise appropriate any part of the sinking fund or its accruing interest, except in time of war, insurrection or invasion.

29. The general assembly may, at any time, direct a sale of the stocks held by the commonwealth in internal improvement and other companies; but the proceeds of such sale, if made before the payment of the public debt, shall constitute a part of the sinking fund, and be applied in like manner.

30. The general assembly shall not contract loans or cause to be issued certificates of debt or bonds of the state, irredeemable for a period greater than thirty-four years.

General provisions.

31. The general assembly shall not grant a charter of incorporation to any church or religious denomination, but may secure the title to church property to an extent to be limited by law.

32. No lottery shall hereafter be authorized by law; and the buying, selling or transferring of tickets or chances in any lottery not now authorized by a law of this state shall be prohibited.

33. No new county shall be formed with an area less than six hundred square miles; nor shall the county or counties from which it is formed be reduced below that area; nor shall any county, having a white population less than five thousand, be deprived of more

than one-fifth of such population; nor shall a county having a larger white population be reduced below four thousand.

34. The general assembly shall confer on the courts the power to grant divorces, change the names of persons, and direct the sale of estates belonging to infants and other persons under legal disabilities, but shall not, by special legislation, grant relief in such cases, or in any other case of which the courts or other tribunals may have jurisdiction.

35. The general assembly shall provide for the periodical registration in the several counties, cities and towns of the voters therein; and for the annual registration of the births, marriages and deaths in the white population, and of the births and deaths in the colored population of the same, distinguishing between the number of the free colored persons and slaves.

36. The manner of conducting and making returns of elections, of determining contested elections, and of filling vacancies in office, in cases not specially provided for by this constitution, shall be prescribed by law. And the general assembly may declare the cases in which any office shall be deemed vacant, where no provision is made for that purpose in this constitution.

37. It shall be the duty of the general assembly to provide by law adequate protection against all infractions of the rights guaranteed to the citizens of this commonwealth by the seventh, eighth and tenth sections of the bill of rights of Virginia, and by the fourteenth, fifteenth, sixteenth and seventeenth clauses of the ninth section of the first article of the constitution of the Confederate States.

ARTICLE V.

EXECUTIVE DEPARTMENT.

Governor.

1. The chief executive power of this commonwealth shall be vested in a governor. He shall hold the office for a term of four years, to commence on the first day of January next succeeding his election, and be ineligible to the same office for the term next succeeding that for which he was elected, and to any other office during his term of service.

2. The governor shall be elected by the voters, at the times and places of choosing members of the general assembly. Returns of the election shall be transmitted, under seal, by the proper officers to the secretary of the commonwealth, who shall deliver them to the speaker of the house of delegates on the first day of the next session of the general assembly. The speaker of the house of delegates shall, within one week thereafter, in the presence of a majority of the senate and house of delegates, open the said returns, and the votes shall then be counted. The person having the highest number of votes shall be declared elected, if such number be a majority of the whole number of votes cast; and if no person have such majority, then from the persons having the highest number of votes, not exceeding three, the general assembly shall by a joint vote of the two houses elect the governor. Contested elections for governor shall be decided by a like vote, and the mode of proceeding in such cases shall be prescribed by law.

3. No person shall be eligible to the office of governor unless he has attained the age of thirty years, is a native citizen of one of the Confederate States, and has been a citizen of Virginia for five years next preceding the election.

4. The governor shall reside at the seat of government; shall receive five thousand dollars for each year of his service, and, while in office, shall receive no other emolument from this or any other government.

5. He shall take care that the laws be faithfully executed; communicate to the general assembly at every session the condition of the commonwealth; recommend to their consideration such measures as he may deem expedient; and convene the general assembly on application of a majority of the members of both houses thereof, or when in his opinion the interest of the commonwealth may require it. He shall be commander-in-chief of the land and naval forces of the state; have power to embody the militia to repel invasion, suppress insurrection, and enforce the execution of the laws; conduct either in person or in such other manner as shall be prescribed by law, all intercourse with other and foreign states; and during the recess of the general assembly fill, *pro tempore*, all vacancies in those offices for which the constitution and laws make no provision; but his appointments to such vacancies shall be by commissions to expire at the end of thirty days after the commencement of the next

session of the general assembly. He shall have power to remit fines and penalties in such cases and under such rules and regulations as may be prescribed by law; and except when the prosecution has been carried on by the house of delegates, or the law shall otherwise particularly direct, to grant reprieves and pardons after conviction, and to commute capital punishment; but he shall communicate to the general assembly, at each session, the particulars of every case of fine or penalty remitted, of reprieve or pardon granted, and of punishment commuted, with his reasons for remitting, granting, or commuting the same.

6. He may require information in writing from the officers in the executive departments upon any subject relating to the duties of their respective offices; and may also require the opinion, in writing, of the attorney general upon any question of law connected with his official duties.

7. Commissions and grants shall run in the name of the commonwealth of Virginia, and be attested by the governor, with the seal of the commonwealth annexed.

Lieutenant governor.

8. A lieutenant governor shall be elected at the same time, and for the same term as the governor, and his qualification and the manner of his election in all respects shall be the same.

9. In case of the removal of the governor from office, or of his death, failure to qualify, resignation, removal from the state, or inability to discharge the powers and duties of the office, the said office, with its compensation, shall devolve upon the lieutenant governor; and the general assembly shall provide by law for the discharge of the executive functions in other necessary cases.

10. The lieutenant governor shall be president of the senate, but shall have no vote; and, while acting as such, shall receive a compensation equal to that allowed to the speaker of the house of delegates.

Secretary of the commonwealth, treasurer and auditor.

11. A secretary of the commonwealth, treasurer and an auditor of public accounts, shall be elected by the joint vote of the two houses of the general assembly, and continue in office for the term of two years, unless sooner removed.

12. The secretary shall keep a record of the official acts of the governor, which shall be signed by the governor and attested by the secretary; and, when required, he shall lay the same and any papers, minutes and vouchers pertaining to his office, before either house of the general assembly; and shall perform such other duties as may be prescribed by law.

13. The powers and duties of the treasurer and auditor shall be such as now are, or may be hereafter prescribed by law.

Board of public works.

14. The general assembly shall organize a board of public works, to continue so long as may be necessary, and with such powers as may be conferred by law.

Militia.

15. The manner of appointing militia officers shall be prescribed by law.

ARTICLE VI.

1. The judicial power shall be vested in the courts of appeal, in the circuit courts, and the judges thereof, in the county and corporation courts, in the justices of the peace, and in the magistrates who may belong to corporate bodies. The general assembly may also constitute special courts of appeal, to consist of not less than three nor more than five judges, constituted of the judges of the courts of appeal and of the circuit courts, or any of them, to try any cases that may be on the docket of either of the courts of appeal, in respect to which a majority of the judges of either court may be so situated as to make it improper for them to sit on the hearing thereof, and also to try any cases on the said dockets which cannot otherwise be disposed of with convenient dispatch.

2. The jurisdiction of these tribunals, of the judges and justices thereof, and of the magistrates of the corporate bodies, shall be regulated by law; except that the courts of appeal shall have appellate jurisdiction only, unless in cases of *habeas corpus*, *mandamus* and prohibition. They shall not have jurisdiction in civil cases where the matter in controversy, exclusive of costs, is less than one hundred dollars, except in controversies concerning the title or boundaries of land, the probat of a will, the appointment or qualification of

a personal representative, guardian, committee or curator; or concerning a mill, road, way, ferry or landing, or the right of a corporation or of a county to levy tolls and taxes, or in cases involving freedom or the constitutionality of a law.

3. There shall be two courts of appeal, to consist of three judges each, any two of whom shall make a quorum; one of these shall be a court of equity, the other a court of law.

4. The state shall be divided into not less than twenty-one judicial circuits, which shall remain as now established until altered by the general assembly. For each circuit a judge shall be appointed, who, during his continuance in office, shall reside in the circuit of which he is judge, and hold a court at least twice a year in every county and corporation thereof wherein a circuit court is established, but a judge of one circuit may hold a court in any other circuit. The number of circuits shall not be increased unless by the concurrent vote of a majority of all the members elected to each house of the general assembly; and with the concurrence of a majority of the members elected to each house, provision may be made for more than one judge in a city or town.

5. The judges of the courts of appeal and of the circuit courts shall be appointed by joint vote of the two houses of the general assembly, commissioned by the governor, and shall hold their offices during good behavior, or until they attain the age of seventy years, or until removed in the manner prescribed in this constitution; and shall, at the same time, hold no other office, appointment, or public trust; and the acceptance thereof by either of them shall vacate his judicial office.

6. The judges shall receive fixed and adequate salaries, which shall not be diminished during their continuance in office. The salaries of the judges of the courts of appeal shall not be less than three thousand dollars each, and that of a judge of the circuit court not less than two thousand dollars per annum, except the salary of the judge of the fifth circuit, which shall not be less than fifteen hundred dollars per annum; and each shall have a reasonable allowance for necessary travel.

7. The judges may be removed from office by a concurrent vote of both houses of the general assembly, but a majority of all the

members elected to each house must concur in such vote; and the cause of removal shall be entered on the journal of each house. The judge against whom the general assembly may be about to proceed, shall receive notice thereof, in such manner as may be prescribed by law, accompanied by a copy of the causes alleged for his removal, at least twenty days before the day on which either house of the general assembly shall act thereon.

8. There shall be a county court in each county of the commonwealth, which shall be held monthly, by three justices of the peace, except when the law shall require the presence of a greater number.

9. Each county shall be laid off into districts as nearly equal as may be in territory and population. In each district four justices of the peace shall be chosen by the qualified voters thereof, who shall be commissioned by the governor, reside in their respective districts, and be at the time of their election qualified voters of the commonwealth, and hold their offices for the term of twelve years. At the first court after the election and qualification of the justices, under this constitution, or as soon thereafter as may be, they shall be divided into four classes; each class to consist of one justice from each district, to be numbered by lot. The term of service of the first class shall expire at the end of three years; of the second class at the end of six years; of the third class at the end of nine years; and of the fourth class at the end of twelve years; and this alternation shall be continued, so that one fourth of the justices may be chosen every third year. Vacancies occurring in the office of justice after the first election, shall be filled by the justices of the county, they having been first summoned for the purpose, and a majority of those present shall be necessary to make an election. The term of the justice so elected shall expire at the end of the term for which his predecessor was elected. The justices of each county shall select one of their own body to be the presiding justice of the county court of their county: whose duty it shall be to attend each term of the said court. The other justices shall be classified by law for the performance of their duties in court.

10. The justices may receive for their services in court a per diem compensation, to be ascertained by law, and paid out of the county treasury; but they shall not receive any fee or emolument for other judicial services.

11. The power and jurisdiction of justices of the peace within their respective counties shall be prescribed by law.

12. The officers of the courts of appeal, and of the special courts of appeal, shall be appointed by the said courts respectively, or by the judges thereof, in vacation, and their duties, compensation and tenure of office shall be prescribed by law.

13. Clerks and attorneys for the commonwealth for the circuit courts shall be appointed by the circuit courts, or by the judges thereof respectively, and clerks and attorneys for the commonwealth for the county courts shall be appointed by such courts respectively, for the term of six years, and their duties and compensation shall be prescribed by law. They shall be removable from office by their respective courts; but in every case of removal the cause thereof shall be entered of record in the court by which the removal was made. Vacancies in said offices shall be filled by the courts respectively in which they occur.

14. The attorney general shall be appointed by joint vote of the two houses of the general assembly, and commissioned by the governor, and shall hold his office during the pleasure of the general assembly.

15. Sheriffs shall be nominated by the respective county courts, and when appointed by the governor shall be commissioned by him, and hold their offices for two years, but no person commissioned as sheriff for one term shall be nominated for another term, unless, prior to such nomination, he shall have duly accounted for all public dues that may have come into his hands.

16. Coroners, constables, surveyors, commissioners of the revenue, and overseers of the poor, shall be appointed by the county courts, and the terms of their offices shall be prescribed by the general assembly.

17. Justices of the peace, sheriffs, attorneys for the commonwealth, clerks of courts, and all other county officers, shall be subject to indictment for malfeasance, misfeasance, or neglect of official duty; and, upon conviction thereof, their offices shall become vacant.

18. The general assembly shall provide for the compensation of jurors; but appropriations for that purpose shall not be made from the state treasury except in prosecutions for felonies or misdemeanors.

19. The cases remaining in the district courts when this constitution is adopted shall be removed for trial into the courts of appeal.

20. Judges and all other officers, except the commissioners of the board of public works, shall continue to discharge the duties of their respective offices, after the terms of their service have expired, until their successors are qualified. The commissioners of the board of public works shall continue in office until otherwise provided by the general assembly.

21. Writs shall run in the name of the commonwealth of Virginia, and be attested by the clerks of the several courts. Indictments shall conclude "against the peace and dignity of the commonwealth."

Corporation courts and officers.

22. The general assembly may vest such jurisdiction as shall be deemed proper in corporation courts, and in the magistrates who shall belong to the corporate body. The mayor, or other chief magistrate, the aldermen in cities and towns having hustings courts, and members of the council or other legislative body of cities and incorporated towns, shall be elected by the qualified voters thereof. Attorneys for the commonwealth, clerks, sergeants and constables, shall be appointed by the corporation courts. Sheriffs, if they act as the officers of the corporation courts, shall be nominated by such courts, otherwise they shall be nominated by the circuit court of the city or town in which they act, and shall in either case be commissioned by the governor. All other officers shall be chosen by the council or legislative body. Clerks and attorneys for the commonwealth of corporation courts shall hold office respectively for the term of six years, and shall be removable from office by their respective courts, but in every case of removal, the cause thereof shall be entered of record in the court by which the removal was made.

Done in convention, in the city of Richmond, on the fifth day of December, in the year of our Lord one thousand eight hundred and sixty-one, and in the eighty-sixth year of the commonwealth of Virginia.

ROBERT L. MONTAGUE,
President of the Convention.

JOHN L. EUBANK,
Secretary of the Convention.

SCHEDULE.

1. It shall be the duty of the president of this convention, immediately on its adjournment, to certify to the governor, a copy of the bill of rights and constitution adopted, together with this schedule.

2. Upon the receipt of such certified copy, the governor shall forthwith announce the fact by proclamation, to be published in such newspapers of the state as may be deemed requisite for general information, and shall annex to his proclamation a copy of the bill of rights and constitution, together with this schedule; which proclamation, bill of rights, constitution and schedule, shall be published in the manner indicated, for the period of one month, and twenty printed copies thereof shall, by the secretary of the commonwealth, be immediately transmitted by mail to the clerk of each county and corporation court in the commonwealth, to be by such clerk submitted to the examination of any person desiring the same.

3. The officers authorized by existing laws to conduct general elections, shall, at the places appointed for holding the same, open a poll book on the second Thursday in March 1862, to be headed the "Constitution as amended and Schedule," and to contain two separate columns, the first column to be headed "for ratifying," the other to be headed "for rejecting." And such officers keeping said polls open for the space of three days, shall then and there receive and record in said poll book the votes for and against this constitution and schedule, of all persons qualified, under the existing constitution, to exercise the right of suffrage. The said officers shall at the same time open another poll book, headed "the right of suffrage," containing two columns, one headed "for the payment of the revenue, county and corporation levies and poor rates, assessed within the preceding year, as a qualification to vote;" the other headed "for the right of suffrage, without the payment of the revenue, county and corporation levies and poor rates, assessed within the preceding year, as a qualification to vote." This poll book shall, in like manner, be kept open for the space of three days, and the votes of all persons qualified to vote for the adoption or rejection of this amended constitution shall be received and recorded for or against said qualification.

4. The commissioners conducting the election at the several precincts of each county and corporation, shall ascertain the number of votes given for each proposition, and certify the said poll books, and forthwith return the same to the clerks of their respective county and corporation courts, and within ten days thereafter the commissioners superintending the election at the courthouse of each county or corporation, shall make out two returns in the following form: "We, A. B. &c. commissioners for holding an election for the adoption or rejection of the amended constitution, for the county (or corporation) of _____, do hereby certify that an election was held on the _____ day of _____, for the said county (or corporation), pursuant to law, and that the following is a statement of the vote as exhibited by the poll books, viz: *For the adoption of the amended constitution* _____ votes, and *for the rejection of the constitution* _____ votes; for the qualification of the right of suffrage _____ votes, and against the qualification of the right of suffrage _____ votes. Given under our hands this the _____ day of _____, in the year _____;" which returns, written in words and not in figures, shall be signed by the commissioners. One of the said returns shall be filed in the clerk's office of the county or corporation, and the other shall be sent to the governor of the commonwealth, under seal.

5. The governor shall, without delay, make proclamation of the result, stating therein the aggregate vote for and against the amended constitution and schedule, and for and against the qualification of the right of suffrage, to be published in such newspapers in the state as may be deemed requisite for general information; and if a majority of said votes be cast in favor of the qualification of the right of suffrage, then the 1st section of the 3d article shall read as follows:

"Qualification of voters.

"1. Every white male citizen of the commonwealth of the age of twenty-one years, who has been a resident of the state for two years, and of the county, city or town where he offers to vote for twelve months next preceding an election, and who, if assessed in such county, city or town, with part of the revenue of the commonwealth, county or corporation levies or poor rates for the year next preceding, shall have actually paid the same, and no other person, shall be qualified to vote for members of the general assembly and all officers elective by the people; but no person in the military, naval or marine service of the Confederate States, shall be deemed a resident of

this state by reason of being stationed therein ; and no person shall have the right to vote who is of unsound mind, or a pauper, or a non-commissioned officer, soldier, seaman or marine in the regular army or navy of the Confederate States, or who has been convicted of bribery in an election, or of any infamous offence.”

6. The qualified voters of the commonwealth, who may be in the military service of the state, or of the Confederate States, may vote for the ratification or rejection of the amended constitution and schedule, and for and against the qualification of the right of suffrage, at such place or places within their encampment or post as the commander at such encampment or post shall designate, whether the said encampment or post shall be within the limits of this state or not. But if, on the said day of election, the condition of any regiment made up in whole or in part of persons qualified to vote in said election, shall be such as to render it impossible for said persons to vote within the post or encampment to which such regiment may belong, such election, so far as said regiment is concerned, may be held on any other day, to be fixed by the commander of such post or encampment, so that the same be not more than ten days after said day of election. For each place of voting he shall appoint a superintendent, three commissioners and as many clerks as shall be necessary, who, after having been first duly sworn by him, shall perform the duties required of, and be liable to the penalties imposed upon, such officers under the election laws of this state. The qualified voters of the commonwealth, not in the military service, who may be absent from the counties or corporations of their residence, by reason of the presence of the public enemy, may vote in any county or corporation in which they may be on the day of election.

7. The officers conducting the said election shall, on the day after the election, or as soon thereafter as may be, deliver the poll books to their said commander, who shall forthwith forward the same to the governor of this commonwealth, who shall count the said votes in ascertaining the result of the said election in the state.

8. The secretary of the commonwealth shall cause to be sent to the clerks of each county and corporation court, and to the military commanders above referred to, the poll books and forms necessary in the election herein provided for—transmitting the same, when necessary, by special messengers. The expenses incurred in providing said poll books and forms and transmitting the same, and in procuring writers to enter the names of the voters therein, shall be defrayed as in the case of the election of members to the general assembly.

9. The duties to be performed by the officers conducting the election, the privilege of the voters, and the penalties for misconduct on the part of any person, shall be the same in all respects as are prescribed by law in the case of other elections.

10. All persons who shall be in office when this amended constitution is adopted shall continue in office until the expiration of their respective terms of service, and until their successors are qualified, unless sooner removed pursuant to law, except that senators of the second class, according to the classification made under the present constitution, shall be placed in the first and second classes of the classification to be made under the provisions of this constitution. Vacancies occurring in the office of justice of the peace after the adoption of this constitution, and before any election of justices is held under it, shall be filled in the same manner as is therein provided for filling vacancies occurring in said office after the first election.

11. The supreme court of appeals shall continue to exercise its present jurisdiction until the courts of appeal, established by this constitution, shall be organized, and the judges thereof who may be in office at the first session of the general assembly under this constitution may be assigned to the duties of either of the courts of appeal, according to the pleasure of the general assembly. All laws in force when this constitution is adopted, and not inconsistent therewith, and all rights, prosecutions, actions, claims and contracts, shall remain and continue as if this constitution was not adopted.

12. The term of service of the delegates first elected to the general assembly under this constitution shall commence at the end of the term of service of the delegates now elected. The first general election of delegates to the general assembly under this constitution shall be held on the fourth Thursday in May 1863, unless otherwise provided by law.

Done in convention, in the city of Richmond, on the sixth day of December in the year of our Lord one thousand eight hundred and sixty-one, and in the eighty-sixth year of the commonwealth of Virginia.

ROBERT L. MONTAGUE,

President of the Convention.

JOHN L. EUBANK,

Secretary of the Convention.

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